

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. CR 05-00611 WHA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KURT F. JOHNSON and DALE
SCOTT HEINEMAN,

Defendants.

**ORDER DENYING DEFENDANTS'
SECOND MOTIONS FOR
RECONSIDERATION OF ORDER
DENYING THEIR MOTIONS TO
VACATE, SET ASIDE, OR CORRECT
THEIR SENTENCES UNDER
SECTION 2255**

Defendants Kurt F. Johnson and Dale Scott Heineman, via separate motions, move *pro se* for reconsideration, once again, of the order denying their motions to vacate, set aside, or correct their sentences under Section 2255. Defendants' first motions to reconsider were denied. Defendants have not been granted leave to file additional motions for reconsideration. Pursuant to Civil Local Rule 7-9, which applies to this matter pursuant to Criminal Local Rule 2-1, no party may notice a motion for reconsideration without first obtaining leave of Court to file the motion. Defendants were once before provided this same instruction.

Even if this order were to construe the motions as motions for leave to file motions for reconsideration, they do not present a material difference in fact or law from that which was presented previously, the emergence of new material facts or a change of law since that time, or a manifest failure by the Court to consider material facts or dispositive legal arguments.

Moreover, defendant Johnson's arguments do not refute or solve the problems with his Section 2255 motion. And defendant Heineman solely "adopts the arguments" of defendant Johnson.

Defendants' motions for reconsideration are thus **DENIED**. Defendant Johnson also moves for leave "to file his action." He has already filed two briefs and a motion for reconsideration. Thus his second motion for leave to file is **DENIED**.

The Clerk shall serve this order on defendants Johnson and Heineman and the government.

IT IS SO ORDERED.

Dated: September 14, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE